

Appl No.: 10/619,324

Atty. Dkt.  
FLG-028DIV**REMARKS/ARGUMENTS**

This supplemental amendment response is in response to the Notice of Non-Compliant Amendment notice mailed May 5, 2005.

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 21, 29, 33 and 36 and canceled claims 23-25, 28, 35 and 39. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the examiner's indication that claims 28, 31 and 39 contain allowable subject matter.

Claims 21-39 were rejected under the judicially created doctrine of obviousness type double patenting as being rejected over claims 1, 2 and 4 of U.S. Patent 6,779,311 to the same assignee as that of the subject invention.

Applicant has filed a terminal disclaimer with the amendment response of December 14, 2004. Thus, removal of this rejection is respectfully requested.

Claims 21-27 were rejected over sec. 102b as being anticipated by Carmen. Claims 29-34 and 36-38 were rejected as being unpatentable over Carmen. Claim 1 has been amended to include the subject matter of former dependent claims 23-25 and novel features of claim 28, independent claim 29 has been amended to include the novel features of former dependent claim 35, and independent claim 36 has been amended to include the novel subject matter of former dependent claim 39. Thus, removal of this rejection is respectfully requested.

Applicant contends the references cannot be modified to incorporate the features of subject claims 21, 22, 26, 27, 29-34 and 36-38 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining


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the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

In view of the foregoing considerations, it is respectfully urged that claims 21, 22, 26, 27, 29-34 and 36-38 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;

  
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Date

5/9/05